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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

NOV 3 2000

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-45
FCC-00J3

COMMENTS ON THE RURAL TASK FORCE RECOMMENDATION OF
IOWA TELECOMMUNICATIONS SERVICES, INC.

Iowa Telecommunications Services, Inc. ("Iowa Telecom"), by its attorney, respectfully submits its comments concerning the Rural Task Force Recommendation To The Federal-State Joint Board On Universal Service (the "Rural Task Force Recommendation"). In the above-captioned proceeding, the Federal-State Joint Board on Universal Service (the "Joint Board") seeks comments on the Rural Task Force Recommendation.¹ The Rural Task Force Recommendation will be considered by the Joint Board in formulating a recommendation to the Commission for universal service reform for rural telephone companies.

I. Introduction.

Iowa Telecom is a rural telephone company serving territory in the state of Iowa. It commenced operations on July 1, 2000 following the purchase of the Iowa local exchange properties operated by GTE Midwest. No new study areas were created as a consequence of that transaction as Iowa Telecom acquired all of GTE's Iowa study areas.

Iowa Telecom is the smallest price cap-regulated local exchange carrier, and qualifies as a rural telephone company as defined by Sections 3(37)(A), (C) and (D) of

¹ Public Notice, FCC-00J-3 (rel. October 4, 2000).

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the Communications Act of 1934, as amended (the “Act”).² Iowa Telecom provides telecommunications services to customers served by approximately 286,000 access lines spread throughout Iowa, in 296 individual exchanges. Iowa Telecom’s operations are very rural in nature. The line density of Iowa Telecom’s service territory is only 14 access lines per square mile. More than half of Iowa Telecom’s exchanges (152) have 500 or less access lines. Only 5 Iowa Telecom exchanges have more than 5,000 access lines, and all of Iowa Telecom’s exchanges have less than 12, 000 access lines. Moreover, at least twenty percent of Iowa Telecom’s access lines are farther than 3 miles from the nearest central office.

Despite the very rural characteristics of Iowa Telecom’s service territory, it currently does not receive any assistance from the High Cost Loop (“HCL”) fund.³ This denial of any assistance for Iowa Telecom’s provision of supported services is due to the inflexible operation of Section 54.305 of the FCC’s rules.⁴ Section 54.305 states that a carrier that acquires rural exchanges will not receive any universal service support to upgrade those exchanges if the selling company was not eligible for such assistance. The rural exchanges that Iowa Telecom acquired from GTE did not qualify for HCL assistance at the time of the acquisition because GTE’s costs did not reflect those of a smaller company committed to developing the rural infrastructure. However, as an inevitable consequence of that transaction, Iowa Telecom’s rural investment priorities must vary from GTE’s because none of Iowa Telecom’s service territory is urban.

² 47 U.S.C. Sections 153(37)(A), (C) and (D).

³ 47 C.F.R. Section 36.631.

⁴ 47 C.F.R. Section 54.305.

The Rural Task Force recommends the establishment of a “safety valve mechanism” to ensure that rural customers are not “doomed to poor service because they live in exchanges that have been involved in sale/transfer transactions”.⁵ While that proposal has good intentions, it does not provide funding that is sufficient to achieve the Act’s universal service mandates. Section 254(b) of the Act requires the Commission to adopt universal service policies that ensure that individuals and businesses “in all regions of the Nation” have the opportunity to share in the benefits of a universally available, high quality and advanced telephone network at just, reasonable and affordable rates.⁶ That statutory goal can only be achieved by permitting all rural telephone companies, including those like Iowa Telecom that have acquired rural exchanges, to receive assistance from the HCL fund on the same terms and conditions to upgrade their rural infrastructure for the provision of advanced telecommunications services.

II. Ensuring That All Rural Telephone Companies Receive Assistance From The High Cost Loop Fund On the Same Terms And Conditions Is Critical To Achieving The National Policy Goals Of The Communications Act.

Congress has clearly articulated in the Act that support for the development of rural markets is critical to the nation. Courts have recognized as prominent among its duties the FCC’s universal service responsibility. National Ass’n of Regulatory Util. Comm’rs. v. FCC, 737 F.2d 1095, 1108 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985).

An essential foundation of the Joint Board’s recommendation to the Commission must therefore be the statutory framework and underlying national policy objectives

⁵ Rural Task Force Recommendation, p. 29.

⁶ 47 U.S.C. Section 254(b).

enacted by Congress in the Act. The Rural Task Force Recommendation recognizes that the Act's universal service policies ensure access to both quality telephone service and advanced telecommunications and information services "in all regions of the Nation".⁷

According to Section 254(b)(3) of the Act:

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.⁸

Furthermore, Section 254(b)(2) states that "[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation."⁹

Despite this statutory mandate to share the benefits of universal service with "all regions of the Nation", the Rural Task Force Recommendation fails to treat all regions served by rural telephone companies the same. The Rural Task Force Recommendation does not go far enough in addressing the negative consequences of Section 54.305 of the Commission's rules. As a consequence, its implementation without the modifications described below would not give rural telephone companies such as Iowa Telecom the same opportunity to receive assistance from the HCL fund as other rural telephone companies.

The continued application of Section 54.305 denies Iowa Telecom the opportunity to submit a loop cost study showing that its rural exchanges are entitled to high cost loop

⁷ Rural Task Force Recommendation, p. 7.

⁸ 47 U.S.C. Section 254(b)(3).

⁹ 47 U.S.C. Section 254(b)(2).

support. The lack of such assistance will undoubtedly retard Iowa Telecom's progress in curing infrastructure deficiencies inherited from GTE and limit the availability of advanced services in numerous rural communities. Such a result clearly contravenes the plain words of the Act. Nowhere in the Act does it allow for a national policy of less support for universal service in rural regions that have been involved in exchange sales than regions that have not been involved in such transactions. To the contrary, the Act requires the Joint Board and the Commission to implement a national policy supporting universal service "in all regions of the Nation".

In order to achieve the Act's universal service mandates, Iowa Telecom requests that the Joint Board recommend to the Commission the elimination of Section 54.305. Such a recommendation would be consistent with the Joint Board's prior pronouncements. In a Recommended Decision released on June 30, 2000, the Joint Board expressed its concern that Section 54.305 does not allow rural carriers to receive "sufficient" support as required by Section 254 of the Act.¹⁰ Specifically, the Joint Board determined that the rule has "negative consequences" because it "prevents the acquiring carrier from receiving an amount of support related to the costs of providing supported service in the transferred exchange."¹¹ The purchasing carrier should be entitled to any HCL support to provide the defined universal services, including advanced services.

¹⁰ Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 00J-1, 2000 FCC LEXIS 3420 (rel. June 30, 2000).

¹¹ Id. at para. 20.

III. Instead of the “Safety Valve Mechanism” Recommended By The Rural Task Force, The HCL Fund Should Operate As To Fund The List of Supported Services For All Rural Telephone Companies, Including Any Advanced Services and Information Services That May Be Added.

The Rural Task Force recommended a “safety valve mechanism” for exchanges acquired by rural telephone companies. This proposal would provide universal service support equivalent to only 50% of the expense adjustment associated with new infrastructure investment.¹² The aggregate of all such assistance provided to all rural telephone companies would be capped at only 5% of the cap for the primary HCL fund.¹³ The caps suggested by the Rural Task Force have no relationship to the costs that Iowa Telecom will incur to provide supported services in rural Iowa.

The proposal to provide only 50% of the universal service support for new investment that would be received under the current rules is unlikely to either provide the ability or motivation to make new investments in upgrading rural networks. Since the current rules were designed to provide sufficient support, providing only half of the support received under the current rules is by definition not going to provide sufficient support for new investments in upgrading rural infrastructure. Moreover, the 5% cap on the aggregate of all “safety valve” expense adjustments by all rural telephone companies could result in Iowa Telecom receiving very little assistance in providing a more modern telecommunications infrastructure in rural communities in Iowa. Such a cap would also fail to satisfy the Act’s requirement that universal service support be “predictable” as it could cause the support received by Iowa Telecom to vary dramatically year to year

¹² Rural Task Force Recommendation, App. D, p. 44.

¹³ Id.

depending on how much “safety valve” assistance is provided to other rural telephone companies.¹⁴

In lieu of the “safety valve mechanism” suggested by the Rural Task Force, the Joint Board and the Commission are more certain to achieve the Act’s universal service goals by eliminating Section 54.305 and refining the HCL fund process and timing to ensure that all rural telephone companies, including those like Iowa Telecom that have acquired rural exchanges, receive assistance from the HCL fund on the same terms and conditions in order to provide all supported services, including any advanced information services that may be added. For example, if the list of supported services were expanded to include internet access, Iowa Telecom will be required to make significant upgrades to the network to remove analog carrier because it does not support deployment of this service. Iowa Telecom should receive full recovery from the HCL fund to make internet access universally available in Iowa. There should be no fund caps or partial recovery. Furthermore, the timing between such new investment and the receipt of support from the HCL must be substantially shortened to avoid creating a disincentive to new infrastructure investment. Iowa Telecom agrees with the Rural Task Force that “the interval between the provision of service and receipt of universal service funding (known as the ‘lag’) should be as short as technically and administratively feasible.”¹⁵ By taking such action, the Joint Board and the Commission can ensure “specific, predictable and sufficient” universal service support to preserve and advance universal service “in all

¹⁴ 47 U.S.C. Section 254(b)(5).

¹⁵ Rural Task Force Recommendation, p. 38.

regions of the Nation”, and avoid a policy that relegates acquired exchanges to a poorer standard of universal service.

IV. The Commission Should Consider Additional Support To Compensate For Stranded Costs.

The Rural Task Force recommended that the Commission consider additional support to compensate for stranded costs.¹⁶ Iowa Telecom fully supports this recommendation.

The investment in Iowa Telecom’s existing infrastructure was based on a regulatory system that allowed full cost recovery. The Act, however, promoted facilities-based competition and, as a consequence, Iowa Telecom is now experiencing significant line losses to competitors that are over-building its exchanges. For example, in the Oxford Junction, Iowa exchange of 300 total access lines, Iowa Telecom has lost 285 access lines to an over-build competitor. The 15 customers that Iowa Telecom continues to serve are located in the most remote portions of that rural community.

A mechanism to recognize and support stranded costs is required to prevent basic local telephone service from becoming either unaffordable or unavailable in the most rural regions of our country. Many of the costs of Iowa Telecom’s existing infrastructure are fixed. And as competitors continue to over-build Iowa Telecom’s service territory, its fixed costs are unlikely to be substantially reduced. Those costs that can be avoided in response to over-building are those that would be saved by abandoning service to the few customers that are still served by the plant being over-built. Moreover, an increase in local service rates is currently the only means to recover the stranded costs associated

¹⁶ Rural Task Force Recommendation, p. 39.

with the underlying plant built in compliance with legal obligations at the time. Accordingly, Iowa Telecom fully supports the Commission's consideration of a mechanism to offset the negative consequences of stranded costs and to keep rural telephone service affordable and available to all.

V. Conclusion.

For the reasons set forth above, the Joint Board should recommend to the Commission that it eliminate Section 54.305. In addition, the Commission should permit all rural telephone companies to receive assistance from the HCL fund on the same terms and conditions to accelerate the availability of advanced services and information services in rural areas. Such action will avoid placing any region of the Nation at a disadvantage with respect to the availability of advanced services and information services solely due to the transfer of a rural exchange. In addition, the Commission should consider the establishment of a separate support mechanism to address stranded costs that risk undermining the maintenance of universal service in the most rural areas of our country.

Respectfully submitted,

IOWA TELECOMMUNICATIONS
SERVICES, INC.

By: 

James U. Troup
Arter & Hadden LLP
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006-1301
Phone: (202) 775-7960
Fax: (202) 857-0172

Its attorney

Date: November 3, 2000

CERTIFICATE OF SERVICE

I, *Monica Gibson-Moore*, a secretary with Arter & Hadden LLP, hereby certify that a copy of the foregoing *Iowa Telecommunications Services' Comments* has been sent via first-class mail, postage pre-paid this 3rd day of November, 2000, to the following:

*Magalie Roman Salas (*Original + four*)
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room 5-B540
Washington, D.C. 20054

*Sheryl Todd
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-B540
Washington, D.C. 20054

*International Transcription Service, Inc.
1231 20th Street, N.W.
Washington, D.C. 20037

*The Honorable Susan Ness
Commissioner, FCC Joint Board Chair
Federal Communications Commission
445 12th Street, SW, Room 8-B115H
Washington, DC 20554

*The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, SW, Room 8-B115H
Washington, DC 20554

*The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, SW, Room 8-B115H
Washington, DC 20554

The Honorable Laska Schoenfelder
Commissioner, State Joint Board Chair
South Dakota Public Utilities Commission
State Capitol, 500 East Capitol Street
Pierre, SD 57501-5070

The Honorable Martha Hogerty
Public Counsel
Missouri Office of Public Counsel
301 West High Street
Suite 250 – Truman Building
P.O. Box 7800
Jefferson City, MO 65102

The Honorable Bob Rowe
Commissioner
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

The Honorable Patrick H. Wood, III
Chairman
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

The Honorable Nanette G. Thompson
Chair
Regulatory Commission of Alaska
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501-1693

Rowland Curry
Chief Engineer
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78701-3326

Greg Fogleman
Economic Analyst
Florida Public Service Commission
2540 Shumard Oak Blvd
Gerald Gunter Bldg.
Tallahassee, FL 32399-0850

Mary E. Newmeyer
Federal Affairs Advisor
Alabama Public Service Commission
100 N. Union Street, Suite 800
Montgomery, AL 36104

Joel Shifman
Senior Advisor
Maine Public Utilities Commission
242 State Street
State House Station 18
Augusta, ME 04333-0018

Peter Bluhm
Director of Policy Research
Vermont Public Service Board
Drawer 20
112 State St., 4th Floor
Montpieller, VT 05620-2701

Charlie Bolle
Policy Advisor
Nevada Public Utilities Commission
1150 E. Williams Street
Carson City, NV 89701-3105

Carl Johnson
Telecom Policy Analyst
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Lori Kenyon
Common Carrier Specialist
Regulatory Commission of Alaska
1016 West 6th Avenue, Suite 400
Anchorage, AK 99501

Susan Stevens Miller
Assistant General Counsel
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, MD 21202-6806

**denotes service by hand-delivery*

Tom Wilson
Economist
Washington Utilities &
Transportation Commission
1300 Evergreen Park Drive, S.W.
P.O. Box 47250
Olympia, WA 98504-7250

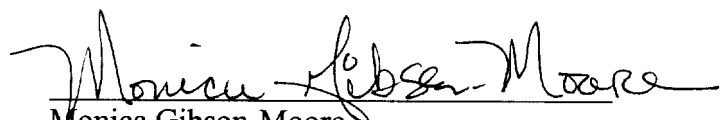
Philip McClelland
Senior Assistant Consumer Advocate
PA Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Barbara Meisenheimer
Consumer Advocate
Missouri Office of Public Counsel
301 West High Street, Suite 250
Truman Building
P.O. Box 7800
Jefferson City, MO 65102

Earl Poucher
Legislative Analyst
Office of the Public Counsel
111 West Madison, Room 812
Tallahassee, FL 32399-1400

Ann Dean
Assistant Director
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, MD 21202-6806

David Dowds
Public Utilities Supervisor
Florida Public Service Commission
2540 Shumard Oaks Blvd.
Gerald Gunter Bldg.
Tallahassee, FL 32399-0850


Monica Gibson-Moore